

### REMARKS

This paper responds to the Office Action mailed on March 19, 2007.

Claims 1, 9, 15, 23, and 32 are amended, no claims are canceled, and no claims are added; as a result, claims 1-32 are now pending in this application. Claim 32 is amended to correct a typographical error so that a period ends this claim. The claim amendments are fully supported by the specification. No new matter is proposed.

#### §112 Rejection of the Claims

Claims 1-8 were rejected under 35 USC § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Office Action refers to the claims not being adequately described in the specification and specifically refers to the feature “at a different ring than . . .” Applicant respectfully traverses. The specification at, for example, page 11, lines 4-8 describe this feature. The specification states

The policy manager 67 and the NIC managers 63<sub>1</sub>, 63<sub>2</sub>, and 63<sub>3</sub> are high level software components in an embodiment. The sensing driver 65 is a kernel level software component in an embodiment. Accordingly, the sensing driver 65 and the policy manager 67 are at different levels or rings in the architecture of the user device 30.

This clearly supports the claim feature at issue. Applicant further refers to Figs. 3 and 4 as well as specification page 8, lines 16-21. However, in the interests of moving this application forward in examination, applicant amends the term “ring” to the term “level.” Reconsideration and withdrawal of this rejection is respectfully requested.

#### §103 Rejection of the Claims

Claims 1-31 were rejected under 35 USC § 103(a) as being unpatentable over Itoh et al. (U.S. 2002/0072391) in view of Chlytchkov (U.S. 7,065,638) in further view of Krantz et al. (U.S. 2004/0153676). Applicant respectfully traverses.

The combination of Itoh, Chlytchkov, and Krantz, if made, must provide each and every element of the claims.

Applicant can not find all of the features of claim 1. Applicant can not find in any of the applied references, a kernel level sense driver adapted to continuously sense an operational state of at least two of the plurality of wireless network adapters; and a policy manager, at a different level than the kernel level sense driver, adapted to receive state information from the sense driver and to selectively activate at least one of the plurality of wireless network adapters based on the state information" as recited in claim 1. For example, applicant can not find "a kernel level sense driver adapted to continuously sense an operational state of at least two of the plurality of wireless network adapters" in any of Itoh, Chytkov, or Krantz. Reconsideration and allowance of claim 1 are requested.

Claims 2-8 depend from claim 1 and are believed allowable at least for the reasons stated above with regard to claim 1.

With regard to claim 8, the Office Action refers to paragraph 13 of Itoh. However, applicant is unable to find in this paragraph a teaching or suggestion of "the sense driver is adapted to continuously sense the operational state of each of the plurality of wireless network adapters" as recited in claim 8. Reconsideration and allowance of claim 8 is requested.

Claim 9 recites, in part, "a plurality of network device drivers integrated within at least one of hardware and software in the device, the plurality of network device drivers to control function of the plurality of network adapters;

a kernel sensing driver adapted to continuously sense an operational state of at least two of the plurality of network adapters, the kernel sensing driver being at a lower level than the plurality of network device drivers;

a policy manager, at a different level than the kernel sensing driver, adapted to receive state information from the sensing driver and to selectively activate at least one of the plurality of network adapters, through communication with the plurality of network device drivers, based on the state information and a hierarchy of preferred network adapters, the policy manager being adapted to selectively hold others of the plurality of network adapters, through communication with the plurality of network device drivers, based on the state information and a hierarchy of preferred network adapters in a reduced power state (underlining added)." Applicant can not

find in Itoh, Chytechkov, or Krantz, either alone or in combination, all of the features of claim 9. For example, applicant can not find the underlined portions above in the applied references. Reconsideration and allowance of claim 9 is requested.

Claims 10-14 depend from claim 9 and are allowable at least with claim 9.

Claim 15 recites, in part, “sensing, continuously, available network adapters using a kernel level driver; activating a preferred available, network adapter according to the stored hierarchy through a policy manager and a network adapter driver.” Applicant can not find these features in the applied references. Reconsideration and withdrawal of the rejection of claim 15 and its dependent claims 16-22 are requested.

Claim 23 recites, in part, “a plurality of wireless network adapters with a device driver; a sense driver at a kernel level adapted to sense an operational state of at least two of the plurality of wireless network adapters, the sense driver being at a lower level than the device driver of the plurality of wireless network adapters; and a policy manager, at a different software level than the sense driver (underlining added). Applicant can not find these features in the three applied references. Reconsideration and allowance of claims 23-32 are requested.

### **RESERVATION OF RIGHTS**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant’s silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner’s personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all

rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 349-9587 to facilitate prosecution of this application.

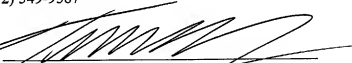
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,  
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Date

19 June '07

By

  
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19th day of June 2007.

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Signature

